

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH J. GENTILE, JR.,

Plaintiff,

-against-

EDWARD BURNETT, ET AL.,

Defendants.

22-CV-8411 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated November 14, 2022, the Court held, among other things, that Plaintiff's allegations failed to state a claim under 42 U.S.C. § 1983 and granted him leave to replead his Section 1983 claims. (ECF 11.) The Court stated that if Plaintiff did not file an amended complaint, the complaint would be dismissed for failure to state a claim upon which relief may be granted. Thereafter, on March 13, 2023, the Court extended for an additional 30 days the time for Plaintiff to replead his civil rights claims. (ECF 29.)

Plaintiff has not filed an amended complaint, and the time to do so has expired. Plaintiff also submitted a letter in which he made clear that he does not intend to file an amended complaint.¹ Accordingly, the Court dismisses Plaintiff's Section 1983 claims with prejudice for failure to state a claim on which relief can be granted. The Court declines, under 28 U.S.C. § 1367(c), to exercise supplemental jurisdiction of any state law claims that Plaintiff may be asserting.

¹ On March 27, 2023, the Court received a letter from Plaintiff, advising the Court that he wishes to withdraw this "action with prejudice." (ECF 31.) In the same letter, he indicated that the only action that he wishes to pursue is a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254, which had been filed in this district under docket number 23-CV-0542; that action was transferred as a successive Section 2254 petition to the United States Court of Appeals for the Second Circuit, where it was opened under docket number 23-6168 (2d Cir.).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment in this matter.

SO ORDERED.

Dated: April 17, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge